

HONOURABLE SRI JUSTICE R. SUBHASH REDDY

AND

**HONOURABLE SRI JUSTICE A. SHANKAR
NARAYANA**

**W.P. Nos.20413, 20540, 20541, 20543, 20546, 20641 AND 20796 OF
2008;**
**7554, 7807, 7808, 7809, 7810, 7811, 7812, 7813, 7814, 7831, 7836,
7855,**
**7879, 7881, 7507, 7917, 7918, 7919, 7920, 7921, 7922, 7923, 7933,
8183,**
**8186, 7549, 9160, 28732, 8181, 8182, 8184, 8185, 8243, 8571, 8667
AND 8668 of 2009.**

COMMON ORDER: (Per Hon'ble Sri Justice A. Shankar Narayana)

This batch of writ petitions can be broadly classified into two different sets for convenience sake.

2. The first set concerns with the common order, dated 18-07-2008, in O.A. No.1883 of 2007 and nine other O.As., passed by the A.P. Administrative Tribunal (for brevity, "Tribunal"), whereby and whereunder the request of the petitioners herein was rejected for implementation of the orders passed by the Government / Heads of Departments / other appointing authorities, as Assistant Para Medical Officers (for brevity, "APMOs"). The Tribunal while dismissing the O.As., also allowed vacate miscellaneous applications filed by the respondents herein and even closed the contempt applications filed by

some of the petitioners herein.

3. Different sets of applicants approached the Tribunal by filing O.As. in the first category. One set of applicants approached the Tribunal stating that despite issuance of the orders by the Government / Heads of Departments / other appointing authorities, they were not being appointed as APMOs in violation of the orders issued in their favour for such appointment. They claimed that they were eligible to be considered for appointment against the post of APMOs in view of existence of orders of the Government or Heads of the Departments etc., as the case may be.

4. W.P. No.7812 of 2009 and 33 other matters arise out of the common order, dated 31-03-2009, in O.A. No.8046 of 2008 and batch, passed by the Tribunal under Section 5(6) of the Administrative Tribunals Act, 1985, dismissing the O.As. The petitioners in this batch of writ petitions, aggrieved of the orders issued in proceedings Rc.No.1948/A2/RDH/2008, dated 22-09-2008, by the Regional Director, Medical & Health Services, Zone – VI, Hyderabad, arrayed as respondent No.3, through which the petitioners were sought to be reverted from the post of APMOs.

5. Before advertig to the fact situation occurring in this batch of writ petitions (numbering 10), we deem it

appropriate to refer to a pertinent fact in the relief portion that being, the petitioners not only sought to set aside the order, dated 18-07-2008, in O.A. No.3774 of 2007 and batch, but also sought further relief to declare that the consequential Memo No.1003/F2/2007, HM & FW (F2) Department, dated 12-09-2008, issued by the Government as illegal and void.

We adverted to this relief for the reason we opine that it falls beyond the scope of the relief to set aside the common order, dated

18-07-2008, passed by the Tribunal in O.A. No.1883 of 2007 and batch.

6. For the sake of convenience, we refer to the facts that lead to filing W.P. No.20413 of 2008 constituting one of the writ petitions in the former batch.

7. In W.P. No.20413 of 2008 and batch, the challenge is to the common order, dated 18-07-2008, passed in O.A. No.3774 of 2007 and batch consisting of ten (10) O.As.

8. We refer to the fact situation as occurring in O.A. No.3774 of 2008. The petitioners sought that all three of them were originally appointed as Lab Technician, Grade – II, on 24-05-1993, Multi Purpose Health Assistant (F) on 23-02-1993 and Multi Purpose Health Assistant (F) on 28-05-1998, respectively, and their services were also

regularised with effect from 24-05-1993, 24-05-1993 and 28-05-1998 respectively. They, even completed the Para Medical Worker training course, which is a pre-requisite course for promotion as APMO and all three of them were well qualified and better equipped for promotion. Earlier, the post of APMO was called Non-Medical Assistant, which post was governed by the Ad hoc Rules (for brevity, "the Rules") issued by G.O. Ms. No.395, dated 30-06-1981, called as Non Medical Assistants in the National Leprosy Control Programme Service Rules. Rule 3 thereof provides for appointment to the said post either by direct recruitment or by promotion of qualified service candidates belonging to A.P. Medical and Public Health Subordinate Services or A.P. Ministerial Services. The qualifications for promotion are prescribed under Rule 4 and one must have passed S.S.L.C. equivalent examinations and also must possess a certificate of six months training in leprosy. They state that it was subsequently reduced to four months.

9. According to them, they made applications, on 03-05-2007, for being promoted as APMO to the District Medical and Health Officer concerned, who is the appointing authority under Rule 7 of the Rules. Those applications were forwarded to the respondent No.3 for consideration and for further forwarding of same to the respondent No.2 and then to respondent No.1, but

respondent No.3, despite receipt of the said representations did not forward them to respondent No.2 with necessary remarks for consideration of their case for promotion. That inaction of respondent No.3, the petitioners claimed, compelled them to approach the Tribunal seeking directions to promote them as APMOs. In some of the O.As. of the said batch, the petitioners' claim is, that despite issuance of the orders, since respondent Nos.2 and 3 did not promote them, they were also compelled to approach the Tribunal for the very same relief.

10. The Tribunal mainly on the grounds (1) that sub-paragraph (vi) of paragraph No.3 of G.O. Ms. No.637, since provides that a policy decision has been taken that the post of APMO shall not be filled up and shall eventually be phased out, (2) that in the absence of any specific orders of the Government relaxing the said policy, issuance of the orders by the Government, the Heads of the Department and the Regional Director, in violation of the policy laid down, reflects utter callous and irresponsible act on their part, (3) that in none of the orders issued by the Government including G.O. Rt. No.39, Health, Medical and Family Welfare (F) Department, dated 10-01-2007, the said policy decision has been relaxed, that, therefore, they are unenforceable by any individuals, and (4) that even if the

service rules make provisions for all individuals for promotion or appointment by transfer to the post of APMO, once as a matter of policy, a decision was taken to integrate these posts with General Health Care Scheme and also not to fill up the vacant posts, none has right to claim promotions/appointment by transfers to the posts which were abolished by the Government in exercise of their powers and

further observing that it was nobody's case that the government do not have the power to abolish the posts and it is the prerogative of the government in the process of rationalisation of service, to re-order its departments by creation of new posts, abolition of existing posts, conversion of existing posts and re-deployment from one category to other category in order to achieve the objectives of the scheme by rationalisation, and, therefore, neither the petitioners nor any other individuals can claim any rights to be considered APMO in respect of any posts which have been abolished by virtue of the policy of the government laid down in G.O. Ms. No.637, dated 03-11-2003, dismissed the applications.

11. Turning to W.P. No.7812 of 2009 and batch, the Tribunal, basing on the common order, dated 18-07-2008, in O.A. No.1883 of 2007 and batch, after extracting the relevant observations therein, observing that the Government has taken a policy decision that the post of APMO shall not be filled up and shall eventually phased

out and under such circumstances, the petitioners seeking their continuance as APMOs will be against the policy decision of the Government and holding that in exercise of its power of judicial review cannot interfere with the policy decision of the Government and any attempt in that direction would amount to making in-roads into the executive's domain and thereby dismissed the O.As.

12. The petitioners in this batch of writ petitions were working as Non-Medical Assistant/Assistant Para Medical Officers (NMA/APMO) on promotion by transfer. The post of APMO in National Leprosy Eradication Programme is a post covered by the rules issued under the proviso to Article 309 of the Constitution of India in G.O. Ms. No.395, Medical & Health (K2) Department, dated 30-06-1981, of Andhra Pradesh Medical Subordinate Services Rules and its zonal cadre post in Branch – III (General) (NMA), National Leprosy Control Programme. They applied to competent authority for consideration of their cases as NMA/APMO and after due consideration, the Government have given permission to the officers concerned to fill up the vacant posts of NMA/APMO through appointment by transfer / promotion vide Memo No.23279/D2/ 2004-1, dated 11-11-2004, Memo No.1351/F2/2005-4, dated

05-05-2005 and 08-10-2005. Thus, they were considered for promotion and there was no lapse on their part and they were discharging their duties to the best of their ability and their services were also regularised and probation was declared in the said post. When some other similarly situated persons asked to be appointed as APMOs basing on the Government Memos, their request was not considered, and, therefore, they filed O.A. No.1883 of 2007 and batch before the Tribunal and obtained interim orders and were promoted, but the said batch of cases were dismissed by the Tribunal on 18-07-2008, mainly relying on G.O. Ms. No.637, Health Medical & Family Welfare (G1) Department, dated 03-11-2003, which they challenged by filing W.P. Nos.20413 of 2008 and batch.

13. Thus, in the former batch of writ petitions, the petitioners were not working as APMOs, and the relief sought for by them was to promote them as APMOs, whereas, in the latter batch of writ petitions, the petitioners were already working as APMOs, but they were said to be reverted by respondent No.3 pursuant to the orders issued by respondent Nos.1 and 2.

14. Now the point that arises for consideration is whether the common orders impugned in this batch of writ petitions can be sustained?

15. Heard Sri M. Panduranga Rao, Sri M. Ratna Reddy and K.V. Sudhakar Reddy, learned counsel for the petitioners, and G.P. for Services – I for the respondent – Government, and perused the material on record.

16. The sum and substance of contentions raised by the learned counsel for the petitioners in these writ petitions is that the promotions were in accordance with the Rules that the services of the petitioners were regularised, that their probation was also declared, that six years P.P.P. was also extended to them and that they all fall in cadre strength, and, therefore, issuance of Memo No.1003/F2/2007, dated 12-09-2008, is misconceived, and consequently the orders under challenge are liable to be set aside by quashing the said memo.

17. The submissions of the learned Government Pleader are that the integration of employees working in National Leprosy Eradication Programme into the General Health Care System by phasing out the posts of APMOs by issuance of G.O. Ms. No.637 and further directions contained in G.O. Ms. No.20 is based on the National Policy and when kept in view, the objective of such rationalisation, it falls within the ambit of executive functions of the State and petitioners cannot take undue advantage of the memos issued permitting the subordinate authorities to effect promotions in utter

disregard to the very policy contained in the said G.Os., and, therefore, the common orders passed by the Tribunal, which are under challenge, do not warrant any interference.

POINT:

18. Initially, the Government by Memo No.20568, Health Medical & Family Welfare (G1) Department, dated 02-01-2003, ordered rationalisation exercise of the existing staff, institutions including Mobile Medical Units, Subsidiary Health Centres / Government Hospitals / Government Dispensaries etc., considering the need to provide improved and effective outreach and health delivery services by ensuring optimum utilisation of the existing manpower/institutions. Accordingly, proposals were received from each District and basing on the proposals, the Government issued G.O. Ms. No.637, dated 03-11-2003, of which, sub-paragraphs (v) and (vi) of paragraph No.3 are relevant for the present purpose.

19. Sub-paragraph (v) envisages that Leprosy Eradication Programme shall be integrated with the General Health Services and the staff under the Leprosy Eradication Programme shall be re-deployed and certain posts as required re-designated as part of the proposed rationalisation without involving increase in pay scales or additional financial implications.

20. Sub paragraph (vi) states that posts of APMOs shall not be filled up and shall eventually phased out and the existing vacant posts shall be converted as Staff Nurse, Grade – II, and re-deployed to Round the Clock, PHCs etc. or converted to such equivalent or junior categories of posts as required in each district based on the rationalization exercise.

21. It is pertinent to note at this juncture itself that under the G.O. even the staff under filarial and malaria schemes shall also be similarly rationalised by re-deployment/re-designation without additional financial implications to provide for greater accountability and effective and preventive outreach services. Certain other incidental directions were given in the said G.O. including budgetary allocations to meet the salary commitment of the downgraded staff for the balance financial year 2003-04 indicating immediate measures to be taken.

22. Thus, the posts of APMOs were virtually abolished by G.O. Ms. No.637, dated 03-11-2003. The Government issued further orders in G.O. Ms. No.20, Health Medical & Family Welfare (D2) Department, dated 20-01-2004, accepting the recommendations of the committee, headed by the Commissioner of Family Welfare and Ex-Officio Secretary to Government, Health Medical and Family Welfare Department for integration of the staff

under NLEP with General Health Care System and accordingly, ordered for integration of the services of the staff in NLEP with General Health Care System. In Paragraph No.6 of the G.O., it is stated that the details of the deployment in the different Heads of Departments is as at

annexure - I, job functions of the different cadres is as at annexure - II and the requirements in different Heads of Departments is as at annexure – III , annexed thereto.

The reasons that lead to issuance of G.O. Ms. Nos.637 and 20 gain significance in assessing the rights claimed by the petitioners herein. The Government of India, after obtaining memorandum of understanding from all the State Governments / Union Territories have entered into an agreement with the World Bank for implementation of National Leprosy Eradication Programme and prepared Project Implementation Plan for Phase – II of NLEP. The main objective is to maintain and achieve elimination of leprosy by the end of 2003 and also to rapidly and effectively integrate vertical services under Leprosy with General Health Side. After review of the progress of the leprosy programme in our State by the then Special Secretary, the Government of India with the Director of Health, Andhra Pradesh State Leprosy Officer and Deputy Director General (L) on 19-11-2001, it was decided that certain issues were to be addressed which include issue of orders of integration of leprosy staff with General Health

Care. The guidelines were suggested by several service associations for integration of the staff under NLEP with General Health Side. A committee headed by the Commissioner of Family Welfare, A.P., with other members was constituted to consider integration at every level of care and submit recommendations to the Government by also considering functional integration of RNTCP Programme with General Health Services to ensure involvement and accountability at every level. The Committee has made certain recommendations and accepting the said recommendations, G.O. Ms. No.20, dated 20-01-2004, was issued. The Government finally directed the Director of Health, A.P., Hyderabad, to take necessary action for relief of the staff along with budget and consequently the other Heads of Departments shall admit them to duty.

23. A safeguard is also provided that the cadre identity in transfers and promotions of NLEP staff integrated into General Health Care System will be maintained by specifically mentioning in Clause 8 of paragraph No.4 of G.O. Ms. No.20. It is to state that despite the same, somehow, on the representations of some of the individuals for promotion to the post of APMOs. submitted to their respective Heads of Departments, they were forwarded to the Government and the Government through Memo No.1351/F2/2005-4,

Health, Medical and Family Welfare (F2) Department, dated 05-05-2005, permitted the Regional Director of Medical and Health Services, Zone – VI, Hyderabad, to fill up the promotional post of APMO (NMA) for appointment by transfer / promotion by following Rules 3 and 4(a) of G.O. Ms. No.395, dated 30-06-1981, and other relevant Government Orders in force according to vacancy position.

24. Through Memo No. 1351/F2/2005-, Health, Medical and Family Welfare (F2) Department, dated 08-10-2005, respondent No.1 permitted the Regional Director of medical and Health Services, Hyderabad, to fill up the promotional posts of APMO (NMA) for appointment by transfer/promotion to (1) M. Srinivas, Junior Assistant, (2) V. Ashok, Lab Technician and (3) K. Sudarsan, Lab Attendant, and to take necessary further action.

25. Subsequent thereto, through Memo No.22144/F2/2004, Health, Medical and Family Welfare (F2) Department, dated 15-11-2005, respondent No.1 referring to G.O. Ms. No.20, dated 20-01-2004, whereunder it was agreed for rationalisation of existing staff and posts of restationing redeployment subject to the conditions (a) no new creation of posts, (b) no up-gradation of existing posts and (c) no filling up of vacant posts, requested the Director of Health, Hyderabad

to take necessary action duly following the said conditions scrupulously.

26. Despite the same, respondent No.1 strangely, issued Memo No.21859/F2/06-2, Health, Medical and Family Welfare (F2) Department, dated 06-01-2007, permitting the Regional Director of Medical and Health Services, Hyderabad to fill up promotional posts of APMO for appointment by transfer/promotion to 11 personnel, whose names were mentioned therein according to the vacancy position.

27. Furthermore, respondent No.1 issued G.O. Rt. No.39, Health, Medical and Family Welfare (F) Department, dated 10-01-2007, by relaxing the Rules issued in G.O. Ms. No.395, and requested the Regional Director, Medical and Health Services, Zone – VI, Hyderabad to appoint Smt. Mumtaz Ahmed, Attender, LCU, Bhongir, Nalgonda District on transfer/promotion as APMO.

28. From a careful perusal of references mentioned in the above memos, we find it conspicuous that reference to G.O. Ms. No.637, dated 03-11-2003, does not find place at all. Further, in Memo No.1351, dated 05-05-2005, while according permission to the Regional Director of Medical and Health Services, Zone – VI, Hyderabad, to fill up the promotional posts of APMOs for appointment by

transfer/promotion by following Rules 3 and 4(a) of G.O. Ms. No.395, dated 30-06-1981, also asked him to follow other relevant Government Orders in force according to vacancy position. In the presence of such a direction to refer to other relevant Government Orders, still, existence of G.O. Ms. No.637, dated 03-11-2003, was not brought to the notice of respondent No.1.

In fact, Memo No.1351, dated 05-05-2005, was first in point of time, whereunder such a permission was accorded by respondent No.1.

Had the existence of G.O. Ms. No.637, dated 03-11-2003 was brought to the notice of respondent No.1, the promotion to fill up the promotional post of APMOs for appointment by transfer/promotion as per the rules in G.O. Ms. No.395, dated 30-06-1981, as ordered in the said memo would have been annulled. The same is the case even in regard to Memo No.1351, dated 08-10-2005. It is also pertinent to mention that through Memo No.22144, dated 15-11-2005, respondent No.1 issued instructions to the Director of Health, Hyderabad, to follow the conditions mentioned therein, which were incorporated basing on G.O. Ms. No.20, dated 20-01-2004, scrupulously. Despite issuance of that memo, the subordinate authorities, Director, Regional Director, and the District Medical Officer did not bring it to the notice of respondent No.1 about the orders issued in Memo No.1351, dated 05-05-2005 and

08-10-2005 for taking necessary action to withdraw the permission and promotions accorded there under. Even in Memo No.21859, dated 06-01-2007 and in G.O. Rt. No.39, dated

10-01-2007, surprisingly, there was no reference to either G.O. Ms. No.637, dated 03-11-2003 or G.O. Ms. No.20, dated 20-01-2004 and the inference that has to be invariably drawn is that purposely they were not mentioned, apprehending that they would come in the way of issuance of the Memos and G.O. Rt No.39, despite there being rationalisation scheme directed to be implemented by the orders in G.O. Ms. No.637 and the subsequent G.O. Ms. No.20 to phase out the posts of APMOs and not to fill them.

29. These have been the reasons that constrained the Tribunal to observe that unfortunately, the Government has brought upon itself a situation on account of failure of the responsible officers including the officers of the cadre of Secretaries. In view of the sequence of events and the discussion thereon as in the above, we have no hesitation in observing that the personnel working in the offices of respondent Nos.2 and 3 mislead them and prompted respondent No.1 to misdirect himself in issuing the memos referred to above, which favoured the applicants therein and the interested applicants including the applicant concerned with

issuance of G.O. Rt. No.39.

30. Concerning the contentions advanced by the learned counsel for the petitioners in these writ petitions, that

(1) the promotions are in accordance with ad-hoc rules contemplated by G.O. Ms. No.395, (2) even the services of the petitioners were also regularised, (3) probation was also declared, (4) the six years P.P.P. was also extended to them and (5) they all fall in cadre strength and, therefore, the orders impugned are liable to be set aside by quashing Memo No.1003/F2/2007, dated 12-09-2008, they require consideration in the light of the decisions rendered by the Hon'ble Apex Court on which reliance was placed by the learned Government Pleader.

31. The learned Government Pleader to substantiate the stand placed reliance on the decision of the Hon'ble Apex Court in

M. Ramanatha Pillai v. The State of Kerala and another^[1] wherein it was held in paragraph No.36 that the abolition of post is not personal penalty against the Government Servant and the abolition of post is an executive policy decision and whether after abolition of the post the Government Servant, who was holding the post would be offered any employment under the State would, therefore, be a matter of policy decision of the

Government because the abolition of post does not confer on the person holding the abolished post any right to hold the post.

32. The Hon'ble Apex Court in **Indian Drugs & Pharmaceuticals Limited v. Workmen, Indian Drugs &**

Pharmaceuticals Limited [2], in the context of prerogative of the Government to create or abolish the posts held in paragraph No.37 thus:

“37. Creation and abolition of posts and regularisation are purely executive functions vide *P.U. Joshi v. Accountant General* ((2003) 2 SCC 632: 2003 SCC (L&S) 191). Hence, the court cannot create a post where none exists. Also, we cannot issue any direction to absorb the respondents or continue them in service, or pay them salaries of regular employees, as these are purely executive functions. This Court cannot arrogate to itself the powers of the executive or legislature. There is broad separation of powers under the Constitution, and the judiciary, too, must know its limits.”

33. In **Official Liquidator v. Dayanand and others** [3], the Hon'ble Apex Court while observing that creation and abolition of posts, formation and structuring/restructuring of cadres, prescribing the source and mode of recruitment and qualifications and criteria of selection, are matters which fall within the exclusive domain of the employer and as to the scope of judicial

review, held in paragraph Nos.59 and 60, thus:

“59. The creation and abolition of posts, formation and structuring/restructuring of cadres, prescribing the source and mode of recruitment and qualifications and criteria of selection, etc. are matters which fall within the exclusive domain of the employer. Although the decision of the employer to create or abolish posts or cadres or to prescribe the source or mode of judicial review, the Court will always be extremely cautious and circumspect in tinkering with the exercise of discretion by the employer. The Court cannot sit in appeal over the judgment of the employer and ordain that a particular post or number of posts be created or filled by a particular mode of recruitment. The power of judicial review can be exercised in such matters only if it is shown that the action of the employer is contrary to any constitutional or statutory provisions or is patently arbitrary or vitiated by *mala fides*.

60. In *State of Haryana v. Navneet* [(2008) 2 SCC 65 : (2008) 1 SCC (L&S) 373], a Division Bench of two Judges referred to *M. Ramanatha Pillai v. State of Kerala* [(1973) 2 SCC 650 : 1973 SCC (L&S) 560], *Kedar Nath Bahl v. State of Punjab* [(1974) 3 SCC 21], *State of Haryana v. Des Raj Sangar* [(1976) 2 SCC 844 : 1976 SCC (L&S) 336], *N.C. Singhal (Dr.) v. Union of India* [(1980) 3 SCC 29 : 1980 SCC (L&S) 269], and *Avas Vikas Sanghathan v. Engineers Assn.* [(2006) 4 SCC 132 : 2006 SCC (L&S) 613] and culled out the following principles: (*Navneet Verma case*, SCC p.70, para 14)

“(a) the power to create or abolish a post rests with the Government;

- (b) whether a particular post is necessary is a matter depending upon the exigencies of the situation and administrative necessity;
- (c) creation and abolition of posts is a matter of government policy and every sovereign Government has this power in the interest and necessity of internal administration;
- (d) creation, continuance and abolition of posts are all decided by the Government in the interest of administration and general public;
- (e) the court would be the least competent in the face of scanty material to decide whether the Government acted honestly in creating a post or refusing to create a post or its decision suffers from mala fides, legal or factual;
- (f) as long as the decision to abolish the post is taken in good faith in the absence of material, interference by the court is not warranted.”

34. For the aforesaid reasons, in the instant writ petitions, we are of the view, that leaving apart that the petitioners failed to make out substantial grounds to satisfy the conscience of the Tribunal or this Court that the decision of the Government for rationalisation and consequent phasing out the posts of APMOs was not in good faith,

the very applications made by them seeking promotions in 2005 despite issuance of G.O. Ms. Nos.637 and 20 in

2003 and 2004, respectively, would certainly, reflect that they were made with mala fide intention to make wrongful gain and the consequence was, the authorities in hierarchy from the level of District Medical Officer and upwards were entrapped for the reasons not known and the outcome was issuance of the Memos and G.O. Rt. No.39 referred to above in fragrant violation of the policy envisaged by G.O. Ms. No.637 and issuance of further orders in G.O. Ms. No.20.

35. The Hon'ble Apex Court in **S. Sivaguru v. State of Tamilnadu and others**^[4], in an identical situation except to the extent that the inter se dispute between the parties occasioned to approach the forum concerned and then the higher Courts, while referring to the fact-situation therein and the rationale for integration of the employees working in National Leprosy Eradication Programme into the Multipurpose Health Workers Scheme in the State of Tamilnadu, observed in paragraph Nos.6 to 9, thus:

“6. The inter se dispute between the parties in the present appeals originated when the fact of successful eradication of leprosy by the national Leprosy Eradication Programme (NLEP) led to the integration of the employees working in the said Scheme into the Multipurpose Health Workers Scheme.

The integration of the Multipurpose Health Workers Scheme with the Leprosy Eradication

Scheme took place vide GOMs No.320, Health and Family Welfare (G-1) Department dated 27-6-1997.

7. The G.O. dated 27-6-1997 sets out the rationale for the integration as follows:

“The National Leprosy Eradication Programme is in operation in Tamil Nadu from 1955. With the introduction of the Multi-Drug Therapy (MDT) comprising these drugs: DAPSONE, RIFAMPCIN and CLOFAZIMINE, incidence of leprosy has been brought down considerably. Tamil Nadu has done a commendable work in the Leprosy Control Programme over the years. The prevalence of leprosy in Tamil Nadu was 118 per 10,000 in 1983 which has been reduced to 7 per 10,000.

The reduction in prevalence rate for the last two years is not very significant. Recently, India hosted an International Meet on Eradication of Leprosy and the Prime Minister has set a goal that the leprosy should be eradicated from India by 2000 A.D. The WHO has also taken similar efforts globally. The eradication of leprosy means bringing down the prevalence rate to 1 per 10,000.”

8. Thus, the Government of India in 1990-91 had suggested integration of leprosy services. It was felt that in order to sustain leprosy services at the operational level, its integration with the public health services will be desirable. Integration would not result in abolition of special services.

On the contrary, specialised component will continue to be available within the general health services at the State and district level for planning and evaluation, provision of training, technical supervision, advice, referral

services and research. The purpose of this integration would be to involve the leprosy field staff in public health work and Health Inspectors in the leprosy work, so that the Leprosy Inspector will cover a population of 5000 to 10,000 as against 25,000 which was being covered at that time by the Leprosy Inspectors.

The Government of Tamil Nadu had also upon considering, for quite some time, the question of integrating the leprosy services with Multipurpose Health Workers Scheme, under the Primary Health Care Services, constituted a committee by

GOMs No.1705 dated 18-12-1996 to go into the various aspects of integration and submit a report. The recommendations submitted by the aforesaid Committee were examined by the Government and accepted with some modifications.

9. Thus, GOMs No.320 dated 27-6-1997 was issued integrating Leprosy Control Scheme with Multipurpose Health Workers Scheme.

The G.O. made elaborate provisions with regard to: (i) the administrative control of the National Leprosy Eradication Programme, which was to be vested with the Director of Public Health and Preventive Medicine, who was to be responsible for the implementation of the National Leprosy Eradication Programme activities in the State. At the district level, the Deputy Director of Medical Services (Leprosy) would be the in-charge of the hospital based units, and would be the Programme Officer, assisted by the Deputy Director (Health Services), and (ii) the salary and other components of the programme staff under the control of the Deputy Director of Medical Services (Leprosy) will be met from

the existing allotment under Demand 18.”

The Apex Court also emphasised the extent to which the Courts can interfere in the matters relating to fusion of employees in paragraph No.69 thus:

“We may also mention here about the extent of interference of this Court in matters relating to integration or fusion of employees.

This Court held in *Officers' Assn. case* [(2007) 10 SCC 684 : (2008) 1 SCC (L&S) 135] that the matter of integration or the fusion of employees, being one of policy, could not have been challenged by the employees unless the said decision was arbitrary, unreasonable or capricious. And as noticed earlier, that none of the government orders vide which integration was effectuated, suffers from any of the aforesaid irregularities. The High Court has merely undone the injustice done to the respondents. We are, therefore, not inclined to interfere in the well-reasoned order of the Division Bench of the High Court.”

36. The decision of the Hon'ble Apex Court in **S. Sivaguru's case** (Supra 4), wholly answers the

controversy and the contentions raised by the learned counsel for the petitioners in this batch of writ petitions, and, therefore, we have no hesitation in observing that the writ petitions are devoid of merit and liable to be dismissed by confirming the impugned common orders passed by the Tribunal as they do not suffer from any illegality, viewed from any angle.

37. We are also of the considered view that no further directions need be issued to the respondents in view of the safeguard mentioned in Clause 8 of paragraph No.4 in G.O. Ms. No.20 to the effect that NLEP staff will be integrated into General Health Care System, but their cadre identity in transfers and promotions etc., will be maintained.

38. In the result, these writ petitions are dismissed confirming the common orders passed by the Tribunal impugned herein. There shall be no order as to costs.

39. As a sequel thereto, Miscellaneous Petitions, if any, pending in this batch of writ petitions stand disposed of.

R. SUBHASH REDDY, J

A. SHANKAR NARAYANA, J

April 29, 2014.

PV

[1] (1973) 2 SCC 650

[2] (2007) 1 SCC 408

[3] (2008) 10 SCC 1

[4] (2013) 7 SCC 335